

JS 44 (Rev. 12/07) (cand rev 1-16-08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS ERIC SEDIE		DEFENDANTS UNITED STATES POSTAL SERVICE AND DOES 1 TO 50	
(b) County of Residence of First Listed Plaintiff MARIN (EXCEPT IN U.S. PLAINTIFF CASES)		County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.	
(c) Attorney's (Firm Name, Address, and Telephone Number) SANFORD M. CIPINKO, ESQ. LAW OFFICES OF SANFORD M. CIPINKO 55 FRANCISCO STREET, SUITE 403 SAN FRANCISCO, CA 94133 / TEL: (415) 693-9905		Attorneys (If Known)	
II. BASIS OF JURISDICTION (Place an "X" in One Box Only)		III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)	
<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	PTF <input type="checkbox"/> t DEF <input type="checkbox"/> l	Incorporated or Principal Place of Business In This State <input type="checkbox"/> 4
<input checked="" type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of Another State <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5
		Citizen or Subject of a Foreign Country <input type="checkbox"/> 3	Foreign Nation <input type="checkbox"/> 6
IV. NATURE OF SUIT (Place an "X" in One Box Only)		OTHER STATUTES	
CONTRACT		TORTS	
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veteran's Benefits		PERSONAL INJURY	
160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise		PERSONAL INJURY	
REAL PROPERTY		PERSONAL PROPERTY	
210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property		CIVIL RIGHTS	
CIVIL RIGHTS		PRISONER PETITIONS	
PRISONER PETITIONS		FORFEITURE/PENALTY	
FORFEITURE/PENALTY		BANKRUPTCY	
BANKRUPTCY		PROPERTY RIGHTS	
PROPERTY RIGHTS		LABOR	
LABOR		SOCIAL SECURITY	
SOCIAL SECURITY		FEDERAL TAX SUITS	
FEDERAL TAX SUITS		IMMIGRATION	
IMMIGRATION		OTHER STATUTES	
OTHER STATUTES		DEFENDANTS	
V. ORIGIN (Place an "X" in One Box Only)		DEFENDANTS	
<input checked="" type="checkbox"/> 1 Original Proceeding		Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Federal Tort Claims Act 28 USC section 2671	
<input type="checkbox"/> 2 Removed from State Court		Brief description of cause: Negligent driving by U.S. Postal Service employee, which resulted in an incident and injuries to Plaintiff	
VI. CAUSE OF ACTION		DEFENDANTS	
VII. REQUESTED IN COMPLAINT:		DEFENDANTS	
VIII. RELATED CASE(S) IF ANY		DEFENDANTS	
IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)		DEFENDANTS	
DATE 6/26/08		SAN FRANCISCO/OAKLAND SAN JOSE	
		SIGNATURE OF ATTORNEY OF RECORD	

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9 ERIC SEDIE

E-filing

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CV 08 3095
CIVIL ACTION NO:
COMPLAINT

ERIC SEDIE,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE.

DOES 1 TO 50, inclusive,

Defendants.

Plaintiff, complaining of Defendant, alleges:

1. This action arises under the Federal Tort Claims Act, 28 USC §2671 et seq. and this Court's jurisdiction under the provision of 28 USC §1346(b).

2. Plaintiff, Eric Sedie is a citizen and resident of Marin County, California, and the cause of action upon which this action is based arose in this county. Thus venue is properly laid in this Court.

3. On or about September 23, 2006, Plaintiff was riding his bicycle in the west bound lane on Paradise Drive in the town of Corte Madera, California.

4. Mr. Sedie is an experienced bicyclist, and he regularly rides through Corte Madera as part of his weekly 75-mile route.

1 5. United States Postal Service truck driven by Glen Christopher De La Cruz
2 Rafael had just finished delivering mail to 5124 Paradise Drive. His postal truck was
3 parked in a private driveway at this location. Mr. Rafael pulled out of the private
4 driveway without looking and, as a result of his carelessness, failed to notice Mr.
5 Sedie's 20-25 mile per hour approach.

6 6. By the time Mr. Rafael's postal truck became visible to Mr. Sedie, only 5-8
7 feet separated the two vehicles. Mr. Sedie slammed into the front end of the postal
8 truck, and this impact violently threw Mr. Sedie over the front handlebars of his bicycle.
9 Mr. Sedie suffered a second, equally severe impact when his body collided with the
10 concrete pavement on the eastbound side of Paradise Drive.

11 7. Mr. Rafael was negligent in that he failed to yield to approaching traffic
12 and pulled out his truck from the private driveway without looking. Mr. Rafael failed to
13 act reasonably and prudently under the circumstances. His negligence and
14 carelessness constitute the direct cause of the collision.

15 8. Mr. Rafael's negligence occurred during the course and scope of his
16 employment with the United States Postal Service. Consequently, the United States
17 Postal Service is responsible for all damages Mr. Sedie has suffered and continues to
18 suffer as a result of the accident.

19 9 In addition to other severe and permanent injuries, Plaintiff Eric Sedie
20 sustained a herniated disk with a posterior annular tear at L4-5, cervical spine disc
21 protrusion at C5-6 and C6-7 as well as right shoulder tendenosis and rotator cuff injury.

22 10. As a direct and proximate result of these injuries, Plaintiff Eric Sedie has
23 endured and will continue to endure, great pain and suffering and mental anguish.

24 11. Plaintiff has expended and continues to expend large sums for medical
25 expenses.

26 12. Plaintiff Eric Sedie is 32 years of age. As a result of these injuries
described above, he had to undergo a back surgery, physical therapy and multiple

1 spinal injections. He has been unable to resume work nor has he been able to engage
2 in any of the recreational or sporting activities he once enjoyed.

3 13. Plaintiff's high performance bicycle sustained extensive damage.
4 Estimated repairs to the bicycle will cost over \$1,500.00.

5 14. On December 14, 2007, 2003, Plaintiff submitted his claim in the amount
6 of \$10,001,500.00, to the United States Postal Service along with a demand letter
7 describing the extent of Mr. Sedie's injuries. On February 11, 2008, Gwen Murray,
8 Paralegal Specialist for the United States Postal Service responded to the claim stating
9 that she is "in the process of reviewing this claim." On March 28, 2008, Plaintiff sent a
10 latter to Ms. Murray asking about the status of her claim review. As of this date, the
11 Untied States Postal Service has neither accepted nor rejected the Plaintiff's claim and,
12 pursuant to 28 USC §2675(a), Plaintiff has elected to consider such failure to act as a
final denial of the claim.

13 WHEREFORE, Plaintiff demands judgment against Defendant Untied States of
14 America as follows:

15 1. The sum of \$10,001,500.00 for Plaintiff Eric Sedie for past and future medical
16 expenses, loss earnings, loss of future earnings, property damage and pain and
suffering;

17 2. Costs in this action; and,

18 3. Such other relief as the Court may deemed proper.

19 DATED: June 26, 2008

20 
21 SANFORD M. CIPINKO
Attorney for Plaintiff

22 **JURY DEMAND**

23 Plaintiff hereby demands jury trial in this matter.

24 DATED: June 26, 2008

25 
26 SANFORD M. CIPINKO
Attorney for Plaintiff